

By: Springer, et al.
(Patterson, Collier, Burrows, Hunter, Canales)

S.B. No. 22

Substitute the following for S.B. No. 22:

By: Turner of Tarrant

C.S.S.B. No. 22

A BILL TO BE ENTITLED

1 AN ACT

2 relating to certain claims for benefits, compensation, or
3 assistance by certain public safety employees and survivors of
4 certain public safety employees.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. The heading to Subchapter B, Chapter 607,
7 Government Code, is amended to read as follows:

8 SUBCHAPTER B. DISEASES OR ILLNESSES SUFFERED BY DETENTION
9 OFFICERS, CORRECTIONS EMPLOYEES, FIREFIGHTERS, PEACE OFFICERS, AND
10 EMERGENCY MEDICAL TECHNICIANS

11 SECTION 2. Section 607.051, Government Code, is amended by
12 amending Subdivision (1) and adding Subdivisions (1-a) and (1-b) to
13 read as follows:

14 (1) "Corrections employee" means an employee of the
15 Texas Department of Criminal Justice whose job duties require
16 regular interaction with the public or an incarcerated population.

17 (1-a) "Detention officer" means an individual
18 employed by a state agency or political subdivision of the state to
19 ensure the safekeeping of prisoners and the security of a
20 municipal, county, or state penal institution in this state.

21 (1-b) "Disability" means partial or total disability.

22 SECTION 3. Sections 607.052(a), (b), (e), and (g),
23 Government Code, are amended to read as follows:

24 (a) Notwithstanding any other law, this subchapter applies

1 only to a detention officer, corrections employee, firefighter,
2 peace officer, or emergency medical technician who:

3 (1) on becoming employed or during employment as a
4 detention officer, corrections employee, firefighter, peace
5 officer, or emergency medical technician, received a physical
6 examination that failed to reveal evidence of the illness or
7 disease for which benefits or compensation are sought using a
8 presumption established by this subchapter;

9 (2) is employed for five or more years as a
10 firefighter, peace officer, or emergency medical technician,
11 except for the presumption under Section 607.0545; and

12 (3) seeks benefits or compensation for a disease or
13 illness covered by this subchapter that is discovered during
14 employment as a detention officer, corrections employee,
15 firefighter, peace officer, or emergency medical technician.

16 (b) A presumption under this subchapter does not apply:

17 (1) to a determination of a survivor's eligibility for
18 benefits under Chapter 615;

19 (2) in a cause of action brought in a state or federal
20 court except for judicial review of a proceeding in which there has
21 been a grant or denial of employment-related benefits or
22 compensation;

23 (3) to a determination regarding benefits or
24 compensation under a life or disability insurance policy purchased
25 by or on behalf of the detention officer, corrections employee,
26 firefighter, peace officer, or emergency medical technician that
27 provides coverage in addition to any benefits or compensation

1 required by law; or

2 (4) if the disease or illness for which benefits or
3 compensation is sought is known to be caused by the use of tobacco
4 and:

5 (A) the firefighter, peace officer, or emergency
6 medical technician is or has been a user of tobacco; or

7 (B) the firefighter's, peace officer's, or
8 emergency medical technician's spouse has, during the marriage,
9 been a user of tobacco that is consumed through smoking.

10 (e) A detention officer, corrections employee, firefighter,
11 peace officer, or emergency medical technician who uses a
12 presumption established under this subchapter is entitled only to
13 the benefits or compensation to which the detention officer,
14 corrections employee, firefighter, peace officer, or emergency
15 medical technician would otherwise be entitled to receive at the
16 time the claim for benefits or compensation is filed.

17 (g) This subchapter applies to a detention officer,
18 corrections employee, firefighter, peace officer, or emergency
19 medical technician who provides services as an employee of an
20 entity created by an interlocal agreement.

21 SECTION 4. Section 607.054, Government Code, is amended to
22 read as follows:

23 Sec. 607.054. TUBERCULOSIS OR OTHER RESPIRATORY ILLNESS.

24 (a) A firefighter, peace officer, or emergency medical technician
25 who suffers from tuberculosis, or any other disease or illness of
26 the lungs or respiratory tract that has a statistically positive
27 correlation with service as a firefighter, peace officer, or

1 emergency medical technician, that results in death or total or
2 partial disability is presumed to have contracted the disease or
3 illness during the course and scope of employment as a firefighter,
4 peace officer, or emergency medical technician.

5 (b) This section does not apply to a claim that a
6 firefighter, peace officer, or emergency medical technician
7 suffers from severe acute respiratory syndrome coronavirus 2
8 (SARS-CoV-2) or coronavirus disease 2019 (COVID-19).

9 SECTION 5. Subchapter B, Chapter 607, Government Code, is
10 amended by adding Section 607.0545 to read as follows:

11 Sec. 607.0545. SEVERE ACUTE RESPIRATORY SYNDROME
12 CORONAVIRUS 2 (SARS-CoV-2) OR CORONAVIRUS DISEASE 2019 (COVID-19).

13 (a) A detention officer, corrections employee, firefighter, peace
14 officer, or emergency medical technician who, based on a test
15 approved by the United States Food and Drug Administration, suffers
16 from severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2)
17 or coronavirus disease 2019 (COVID-19) that results in death or
18 total or partial disability is presumed to have contracted the
19 virus or disease during the course and scope of employment as a
20 detention officer, corrections employee, firefighter, peace
21 officer, or emergency medical technician if the detention officer,
22 corrections employee, firefighter, peace officer, or emergency
23 medical technician:

24 (1) is employed in the area designated in a disaster
25 declaration by the governor under Section 418.014 or another law
26 and the disaster is related to severe acute respiratory syndrome
27 coronavirus 2 (SARS-CoV-2) or coronavirus disease 2019 (COVID-19);

1 and

2 (2) contracts the disease during the disaster declared
3 by the governor described by Subdivision (1).

4 (b) The presumption under this section applies only to a
5 person who:

6 (1) is employed as a detention officer, corrections
7 employee, firefighter, peace officer, or emergency medical
8 technician on a full-time basis; and

9 (2) was last on duty not more than 14 days before the
10 date the person tests positive for severe acute respiratory
11 syndrome coronavirus 2 (SARS-CoV-2) or coronavirus disease 2019
12 (COVID-19).

13 (c) This section does not affect the right of a detention
14 officer, corrections employee, firefighter, peace officer, or
15 emergency medical technician to provide proof, without the use of
16 the presumption under this section, that an injury or illness
17 occurred during the course and scope of employment.

18 (d) Sections 409.009 and 409.0091, Labor Code, do not apply
19 to a claim for compensation determined to be compensable or
20 accepted by an insurance carrier as compensable using the
21 presumption under this section. Notwithstanding this subsection,
22 an injured employee may request reimbursement for health care paid
23 by the employee as provided by Section 409.0092, Labor Code.

24 SECTION 6. Section 607.057, Government Code, is amended to
25 read as follows:

26 Sec. 607.057. EFFECT OF PRESUMPTION. Except as provided by
27 Section 607.052(b), a presumption established under this

1 subchapter applies to a determination of whether a detention
2 officer's, corrections employee's, firefighter's, peace officer's,
3 or emergency medical technician's disability or death resulted from
4 a disease or illness contracted in the course and scope of
5 employment for purposes of benefits or compensation provided under
6 another employee benefit, law, or plan, including a pension plan.

7 SECTION 7. Section 607.058, Government Code, is amended to
8 read as follows:

9 Sec. 607.058. PRESUMPTION REBUTTABLE. (a) A presumption
10 under Section 607.053, 607.054, 607.0545, 607.055, or 607.056 may
11 be rebutted through a showing by a preponderance of the evidence
12 that a risk factor, accident, hazard, or other cause not associated
13 with the individual's service as a detention officer, corrections
14 employee, firefighter, peace officer, or emergency medical
15 technician was a substantial factor in bringing about the
16 individual's disease or illness, without which the disease or
17 illness would not have occurred.

18 (b) A rebuttal offered under this section must include a
19 statement by the person offering the rebuttal that describes, in
20 detail, the evidence that the person reviewed before making the
21 determination that a cause not associated with the individual's
22 service as a detention officer, corrections employee, firefighter,
23 peace officer, or emergency medical technician was a substantial
24 factor in bringing about the individual's disease or illness,
25 without which the disease or illness would not have occurred.

26 (c) In addressing an argument based on a rebuttal offered
27 under this section, an administrative law judge shall make findings

1 of fact and conclusions of law that consider whether a qualified
2 expert, relying on evidence-based medicine, stated the opinion
3 that, based on reasonable medical probability, an identified risk
4 factor, accident, hazard, or other cause not associated with the
5 individual's service as a detention officer, corrections employee,
6 firefighter, peace officer, or emergency medical technician was a
7 substantial factor in bringing about the individual's disease or
8 illness, without which the disease or illness would not have
9 occurred.

10 (d) A rebuttal offered under this section to a presumption
11 under Section 607.0545 may not be based solely on evidence relating
12 to the risk of exposure to severe acute respiratory syndrome
13 coronavirus 2 (SARS-CoV-2) or coronavirus disease 2019 (COVID-19)
14 of a person with whom a detention officer, corrections employee,
15 firefighter, peace officer, or emergency medical technician
16 resides.

17 (e) A rebuttal offered under this section to a presumption
18 under Section 607.0545 may be based on evidence that a person with
19 whom a detention officer, corrections employee, firefighter, peace
20 officer, or emergency medical technician resides had a confirmed
21 diagnosis of severe acute respiratory syndrome coronavirus 2
22 (SARS-CoV-2) or coronavirus disease 2019 (COVID-19).

23 SECTION 8. Subchapter **A**, Chapter **409**, Labor Code, is
24 amended by adding Section 409.0092 to read as follows:

25 Sec. 409.0092. HEALTH CARE REIMBURSEMENT PROCEDURES FOR
26 CERTAIN INJURED EMPLOYEES. (a) An injured employee whose claim for
27 compensation is determined to be accepted by an insurance carrier

1 as compensable using the presumption under Section 607.0545,
2 Government Code, may request reimbursement for health care paid by
3 the employee, including copayments and partial payments, by
4 submitting to the carrier a legible written request and
5 documentation showing the amounts paid to the health care provider.

6 (b) Not later than the 45th day after the date an injured
7 employee submits a request for reimbursement for health care to an
8 insurance carrier under Subsection (a), the carrier shall provide
9 reimbursement or deny the request.

10 (c) If an insurance carrier denies an injured employee's
11 request for reimbursement for health care, the employee may seek
12 medical dispute resolution as provided by Chapter 413 and division
13 rules. Notwithstanding any other law, an employee's request for
14 medical dispute resolution is considered timely if the employee
15 submits the request not later than the 120th day after the date the
16 carrier denies the employee's request for reimbursement.

17 SECTION 9. Section 409.022(d), Labor Code, is amended to
18 read as follows:

19 (d) In this subsection, the terms "corrections employee,"
20 "detention officer," "emergency medical technician,"
21 "firefighter," and "peace officer" have the meanings assigned by
22 Section 607.051, Government Code. In addition to the other
23 requirements of this section, if an insurance carrier's notice of
24 refusal to pay benefits under Section 409.021 is sent in response to
25 a claim for compensation resulting from a corrections employee's, a
26 detention officer's, an emergency medical technician's, a
27 firefighter's, or a peace officer's disability or death for which a

1 presumption is claimed to be applicable under Subchapter B, Chapter
2 607, Government Code, the notice must include a statement by the
3 carrier that:

4 (1) explains why the carrier determined a presumption
5 under that subchapter does not apply to the claim for compensation;
6 and

7 (2) describes the evidence that the carrier reviewed
8 in making the determination described by Subdivision (1).

9 SECTION 10. (a) The changes in law made by this Act apply to
10 a claim for benefits, compensation, or assistance pending on or
11 filed on or after the effective date of this Act. A claim for
12 benefits, compensation, or assistance filed before that date, other
13 than a claim pending on that date, is covered by the law in effect on
14 the date the claim was made, and that law is continued in effect for
15 that purpose.

16 (b) Notwithstanding any other law, a person who on or after
17 the date the governor declared a disaster under Chapter 418,
18 Government Code, relating to SARS-CoV-2, coronavirus disease 2019
19 (COVID-19), but before the effective date of this Act, contracted
20 SARS-CoV-2, coronavirus disease 2019 (COVID-19), may file a claim
21 for benefits, compensation, or assistance related to SARS-CoV-2,
22 coronavirus disease 2019 (COVID-19), on or after the effective date
23 of this Act, regardless of whether that claim is otherwise
24 considered untimely and the changes in law made by this Act apply to
25 that claim. A claim authorized under this subsection must be filed
26 not later than six months after the effective date of this Act.

27 (c) Notwithstanding Subsection (a) of this section or

1 Section 409.003, 410.169, or 410.205, Labor Code, a person who on or
2 after the date the governor declared a disaster under Chapter 418,
3 Government Code, relating to SARS-CoV-2, coronavirus disease 2019
4 (COVID-19), but before the effective date of this Act, filed a claim
5 for benefits, compensation, or assistance related to SARS-CoV-2,
6 coronavirus disease 2019 (COVID-19), and whose claim was
7 subsequently denied may, on or after the effective date of this Act,
8 request in writing that the insurance carrier reprocess the claim
9 and the changes in law made by this Act shall apply to that claim. A
10 request to reprocess a claim as authorized by this subsection shall
11 be filed not later than one year after the effective date of this
12 Act.

13 (d) Not later than the 60th day after the date an insurance
14 carrier receives a written request to reprocess a claim under
15 Subsection (c) of this section, the insurance carrier shall
16 reprocess the claim and notify the person in writing whether the
17 carrier accepted or denied the claim. If the insurance carrier
18 denies the claim, the notice must include information on the
19 process for disputing the denial. The notice provided by the
20 insurance carrier must use the notice provisions prescribed by the
21 division of workers' compensation of the Texas Department of
22 Insurance under Subsection (e) of this section.

23 (e) As soon as practicable after the effective date of this
24 Act, the division of workers' compensation of the Texas Department
25 of Insurance shall prescribe notice provisions for an insurance
26 carrier to use when providing notice of the insurance carrier's
27 acceptance or denial of a person's claim. The notice provisions

1 must be clear and easily understandable.

2 SECTION 11. This Act takes effect immediately if it
3 receives a vote of two-thirds of all the members elected to each
4 house, as provided by Section 39, Article III, Texas Constitution.
5 If this Act does not receive the vote necessary for immediate
6 effect, this Act takes effect September 1, 2021.